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UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
MISSOULA DIVISION

TANYA GERSH,

Case No.: 9:17-cv-00050-DLC-JCL

Plaintiff,

And

TIMOTHY C. FOX, in his official
capacity as Attorney General of the
State of Montana,

Intervenor,

vs.

ANDREW ANGLIN, publisher of
the *Daily Stormer*,

Defendant.

**PLAINTIFF'S NOTICE OF
DISCLOSURE OF DAMAGES
WITNESSES PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 26(A)(2)(C) AND
THIS COURT'S SCHEDULING
ORDER**

COMES NOW, Plaintiff TANYA GERSH, and, out of an abundance of caution, submits the following Disclosure of Damages Witnesses pursuant to Federal Rule of Civil Procedure 26(A)(2)(C) and this Court's Scheduling Order, Dkt. No. 126, notwithstanding Entry of Default against Defendant (Dkt. Nos. 186, 188). Plaintiff has not retained or specially employed any individual to provide expert testimony in the above-referenced matter.

PROCEDURAL POSTURE

On April 30, 2019, following Defendant's failure to appear at his properly noticed deposition, this Court issued an Order directing the Clerk of Court to enter Defendant's default (Dkt. No. 186); the Clerk entered default, pursuant to Rule 55 (a), against Defendant. (Dkt. No. 188); and Defendant's attorneys filed a motion to withdraw (Dkt. No. 190) and a brief in support (Dkt. No. 191). On May 14, 2019, Defendant's attorneys filed a supplement to the motion to withdraw providing Defendant's consent to withdrawal (Dkt. No. 195). The Court granted the motion on the same day. (Dkt. No. 196). Defendant failed to comply with this Court's order requiring him to inform the Court whether he will have new attorneys or will be proceeding *pro se* by May 13, 2019. (Dkt. No. 182). Defendant claims not to live in the United States and has not provided Plaintiff with a current mailing address for service of filings.¹

¹ Plaintiff addresses service to the known addresses of Defendant.

Plaintiff intends to file a Motion for Default Judgment pursuant to Rules 37 and 55 of the Federal Rules of Civil Procedure. Her attorneys are currently drafting and otherwise gathering supporting declarations, evidence and briefing to provide this Court and assist it in determining unliquidated and punitive damages.

DISCLOSURE OF DAMAGES EXPERT WITNESSES

The following witnesses who will, or may, provide testimony regarding damages, none of whom have been retained nor specially employed are as follows:

1. J. Douglas Muir, M.D.

Dr. J. Douglas Muir is one of Ms. Gersh's medical providers. Plaintiff indicates that the subject matter on which this witness is expected to present evidence and opinions concern Plaintiff's initial and ongoing consultations, evaluations, diagnosis, prognosis and treatment. Dr. Muir will provide facts and opinion regarding compensatory damages Ms. Gersh suffered, namely the injuries and medical treatment, past and future, resulting from the actions of the Defendant.

2. Melissa Hartman, LCSW.

Melissa Hartman is one of Ms. Gersh's medical providers. Plaintiff indicates that the subject matter on which this witness is expected to present evidence and opinions concern Plaintiff's initial and ongoing consultations, evaluations, diagnosis, prognosis and treatment. Ms. Hartman Muir will provide facts and

opinion regarding compensatory damages Ms. Gersh suffered, namely injuries and medical treatment, past and future, resulting from the actions of the Defendant.

3. Sean Averill.

Sean Averill is the Principal Owner and a Real Estate Agent at Pure West Real Estate in Whitefish Montana. Plaintiff indicates that the subject matter on which this witness is expected to present evidence and opinions concern the critical importance of real estate internet marketing, including realtor websites and social media presence, to the Whitefish Montana real estate market in general, and Ms. Gersh in particular. Mr. Averill will provide facts and opinion regarding compensatory damages Ms. Gersh suffered as a result of being targeted by Defendant, which targeting resulted in the requirement that she remove herself from all public-facing online activity for a period of time and the financial impact of such removal. Mr. Averill is also expected to testify about the impact of reputational harm such as that suffered by Ms. Gersh on the earnings of a Real Estate Agent in Whitefish Montana.

4. Judah Gersh

Judah Gersh is an attorney in Whitefish Montana whose business was targeted by the Defendant and the Plaintiff's husband. Plaintiff indicates that the subject matter on which this witness is expected to present evidence and opinions concern his observations of the emotional distress and trauma experienced by his wife as a

result of Defendant's actions. Mr. Gersh has first-hand knowledge and opinions regarding compensatory damages suffered by his wife, Plaintiff Gersh, based on observations of the psychological impact and resulting alterations in his wife's physical and mental health as a result of Defendant's actions.

5. Tanya Gersh

To the extent such is required to be disclosed, Plaintiff intends to present evidence and opinions about the extent of injuries she suffered, and continues to suffer, as a result of the actions of Defendant. This testimony bears directly on any compensatory damages awarded.

The Plaintiff reserves the right to supplement this response in accordance with the Federal Rules of Civil Procedure.

DATED May 30, 2019.

/s/ Elizabeth Littrell

Attorney for Plaintiff Tanya Gersh
on behalf of all Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

I hereby certify that on this date the foregoing document was sent by U.S. and electronic mail to Defendant at the following addresses identified by his former counsel in his Motion to Withdraw:

6827 N High Street, Suite 121,
Worthington, Ohio 43085

3827 N High Street, Suite 121,
Worthington, Ohio 43085

7407 Brandshire Ln. Apt. B,
Dublin, Ohio 43017

915 N High Street,
Columbus, Ohio 43201

I further certify that on this date the foregoing document was filed through the Court's CM/ECF filing system, and by virtue of this filing notice will be sent electronically to all counsel of record, including:

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on this 30th day of May, 2019.

/s/ Elizabeth Littrell

Attorney for Plaintiff Tanya Gersh
on behalf of all Attorneys for Plaintiff